

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**REGION 8**  
**999 18<sup>TH</sup> STREET- SUITE 300**  
**DENVER, CO 80202-2466**  
**Phone 800-227-8917**  
**<http://www.epa.gov/region08>**

2006 APR -7 AM 11:31

FILED  
EPA REGION VIII  
HEARING CLERK

**DOCKET NO.: SDWA-08-2006-0025**

IN THE MATTER OF:

# TOWN OF WINIFRED

Winifred, Montana

RESPONDENT

## FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

DATE                     

Carol A. LeBoo, Acting  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2006 APR -7 AM 11:31

**IN THE MATTER OF:**

Town of Winifred  
Winifred, Montana

Respondent

)  
)  
) **COMBINED COMPLAINT AND**  
) **CONSENT AGREEMENT**  
)  
)  
)  
) Docket No. **SDWA-08-2006-0025**  
) PWS ID #MT0000363  
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FILED  
EPA REGION VIII  
HEARING CLERK

Complainant, United States Environmental Protection Agency, Region 8 ("Complainant" or "EPA"), and Respondent, the Town of Winifred, Montana, ("Respondent"), by their undersigned representatives, hereby consent and agree as follows:

**PRELIMINARY STATEMENT**

1. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. ("Consolidated Rules of Practice") (Attachment 1). This combined complaint and consent agreement ("consent agreement") is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

2. Complainant has jurisdiction over this matter pursuant to section 1414(g)(3) of the Safe Drinking Water Act, as amended ("Act"), 42 U.S.C. § 300g-3(g)(3).

3. Respondent admits the allegations contained herein in this consent agreement.

4. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in this consent agreement.

5. This consent agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.

6. This consent agreement contains all terms of the settlement agreed to by the parties.

7. The following general allegations apply to each count of this consent agreement.

8. Respondent is a municipality and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and 40 C.F.R. § 141.2.

9. Respondent owns and/or operates the Town of Winifred Water System (the "System"), located in Fergus County, Montana for the provision of water to the public for human consumption.

10. The System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.

11. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. part 141.

12. Respondent's System is supplied solely by a groundwater source consisting of one well and which serves approximately 150 persons daily.

13. The Montana Department of Environmental Quality ("MDEQ") has primary enforcement authority for the Safe Drinking Water Act in the State of Montana. On June 10, 2003, EPA issued a Notice of Violation pursuant to section 1414(a) of the Act, 42 U.S.C. § 300g-3(a) to the MDEQ regarding the violations at the System (Complainant's Attachment 2). MDEQ elected not to commence an appropriate enforcement action against the System for the violations within the thirty day time frame set forth in section 1414(a) of the Act, 42 U.S.C. § 300g-3(a).

14. On September 29, 2003, EPA issued an Administrative Order (Docket No. SDWA-08-2003-0031) to the Respondent pursuant to section 1414(g)(1) of the Act, 42 U.S.C. § 300g-3(g)(1), citing violations of the National Primary Drinking Water Regulations ("NPDWRs") (40 C.F.R. part 141). A copy of the Administrative Order is attached to this consent agreement and incorporated herein (Complainant's Attachment 3).

15. The Order required Respondent, among other things, to achieve compliance with the NPDWRs that Complainant found Respondent violated.

16. On April 22, 2004, EPA sent Respondent a "Violation of Administrative Order" letter citing Respondent's failure to comply with the Administrative Order and the NPDWRs. (Complainant's Attachment 4).

17. MDEQ sent numerous letters to Respondent regarding the violations alleged in this consent agreement.

## **SPECIFIC ALLEGATIONS**

### **Count I**

#### **Failure to Monitor for Inorganic Contaminants**

18. 40 C.F.R. § 141.23(c)(1) requires community water systems utilizing groundwater sources to monitor their water once in each 3 year compliance period to determine compliance with the MCLs for inorganic contaminants as stated in 40 C.F.R. § 141.62.

19. Page 5, paragraph 2 of the "Order" section of the Administrative Order required Respondent, within 30 days of the effective date of the Order, to comply with the inorganic contaminant monitoring requirements as stated in 40 C.F.R. § 141.23(c)(1) to determine compliance with the inorganic MCLs appearing at 40 C.F.R. § 141.62 and also required Respondent to report analytical results to EPA and MDEQ within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).

20. Respondent failed to monitor its water for inorganic contaminants within thirty (30) days of the effective date of the Order and through September 22, 2005, in violation of the Administrative Order and 40 C.F.R. § 141.23(c)(1).

### **Count II**

#### **Failure to Monitor for Volatile Organic Contaminants**

21. 40 C.F.R. § 141.24(f) requires that community water systems utilizing groundwater sources and having no detects for three years monitor their water once in each 3 year compliance period to determine compliance with the MCLs for volatile organic contaminants as stated in 40 C.F.R. § 141.61.

22. Page 5, paragraph 3 of the "Order" section of the Administrative Order required Respondent, within 30 days of the effective date of the Order, to comply with the organic

contaminant monitoring requirements as stated in 40 C.F.R. § 141.24(f) to determine compliance with the MCLs for volatile organic contaminants appearing at 40 C.F.R. § 141.61 and also required Respondent to report analytical results to EPA and MDEQ within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).

23. Respondent failed to monitor its water for volatile organic contaminants within thirty (30) days of the effective date of the Order and through September 22, 2005, in violation of the Administrative Order and 40 C.F.R. § 141.24(f).

### **Count III Failure to Monitor for Synthetic Organic Contaminants**

24. 40 C.F.R. § 141.24(h) requires all community water systems that have no detects during initial monitoring and have a population less than 3,301, to monitor their water once during each repeat compliance period to determine compliance with the MCLs for pesticide/herbicide organic contaminants as stated in 40 C.F.R. § 141.61(c).

25. Page 6, paragraph 4 of the "Order" section of the Administrative Order required Respondent, within 30 days of the effective date of the Order, to comply with the organic contaminant monitoring requirements as stated in 40 C.F.R. § 141.24(h) to determine compliance with the MCLs for pesticide/herbicide organic contaminants appearing at 40 C.F.R. § 141.61(c) and also required Respondent to report analytical results to EPA and MDEQ within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).

26. Respondent failed to monitor its water for pesticide/ herbicide organic contaminants within thirty (30) days of the effective date of the Order and through September 22, 2005, in violation of the Administrative Order and 40 C.F.R. § 141.24(h).

**Count IV**  
**Failure to Notify the Public**  
**of NPDWRs Violations**

27. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any NPDWR violations.

28. Pages 6 and 7, paragraph 6 of the "Order" section of the Administrative Order required Respondent, within thirty days of the effective of the Order, to provide a public notice for the violations specified in the Administrative Order and to comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation and submit a copy of the public notice to EPA and MDEQ within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

29. Respondent failed to provide notice to the public of the violations identified in the Administrative Order and subsequent violations referenced in the counts set forth above, and failed to submit a copy of the public notice to EPA and MDEQ, in violation of the Administrative Order and 40 C.F.R. §§ 141.201 and 141.31(d).

**Count V**  
**Failure to Report Noncompliance**  
**with NPDWRs to EPA**

30. 40 C.F.R. § 141.31(b) requires that except where a different period is specified by 40 C.F.R. part 141, public water systems shall report any failure to comply with the NPDWRs (40 C.F.R. part 141) to the State within 48 hours.

31. Page 7, paragraph 7 of the "Order" section of the Administrative Order required Respondent to comply with 40 C.F.R. § 141.31(b) by reporting to EPA and MDEQ any failure to comply with any NPDWR (40 C.F.R. part 141) within 48 hours.

32. Respondent failed to report to EPA and MDEQ instances of noncompliance detailed in Counts I - IV, as set forth above, in violation of the Administrative Order and 40 C.F.R. § 141.31(b).

### TERMS AND CONDITIONS

33. Pursuant to section 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3), and based on the nature of the violations and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is the amount of One Thousand Dollars (\$1,000).

34. Respondent consents and agrees that not more than thirty (30) days after Respondent's receipt of a signed final order in this matter, Respondent shall pay a civil penalty in the amount of One Thousand Dollars (\$1,000) by remitting a cashier's or certified check for that amount, payable to "Treasurer, United States of America," to:

Mellon Bank  
EPA Region 8  
(Regional Hearing Clerk)  
P.O. Box 360859M  
Pittsburgh, PA 15251-6859

The checks shall reference the name and address of Respondent's facility and the EPA docket number of this action. A copy of the checks shall be sent simultaneously to:

Michelle Marcu  
Enforcement Attorney  
U.S. EPA Region 8 (8ENF-L)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

and

Tina Artemis  
Region 8 Hearing Clerk  
U.S. EPA Region 8 (8RC)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

35. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if the penalty is not paid when due. Interest will be assessed at the current value of funds due to the United States

Treasury. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees. In addition, a penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. Any such penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 40 C.F.R. § 13.11.

36. Nothing in this consent agreement shall relieve Respondent of its obligation to comply with the Act and its implementing regulations.

37. Failure by Respondent to comply with any of the terms of this consent agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

38. Nothing in this consent agreement shall be construed as a waiver by EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this agreement.

39. Each undersigned representative of the parties to this agreement certifies that she is fully authorized by the party represented to bind the parties to the terms and conditions of this consent agreement and to execute and legally bind that party to this consent agreement.

40. The parties agree to submit this consent agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

41. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this consent agreement.

42. This consent agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the violations contained in this consent agreement.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8  
Complainant.

Date: 04/05/2006

Eddie A. Sherris  
for Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Date: 4/4/06

Michelle D. Marcu  
Michelle D. Marcu  
Enforcement Attorney  
Legal Enforcement Program  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466  
Telephone Number: (303) 312-6921

Date: 1/12/06

Neil Rich  
Neil Rich, Mayor  
Town of Winifred, Montana



1st page only

SOURCE: 64 FR 40176, July 23, 1999, unless otherwise noted.

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**§ 21.13**

**Subpart A—General**

**Subpart A—General**

**Subpart A—General**

shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any de-termination subsequently made, in ac-cordance with § 21.5, on any such state-ment.

(i) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective ef-forts, and if the deficiencies signifi-cantly affect the conduct of the pro-gram, the Regional Administrator, after sufficient notice has been pro-vided to the Regional Director of SBA, shall withdraw the approval of the State program.

(i) Any State whose program is with-drawn and whose deficiencies have been corrected may later reapply as pro-vided in § 21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

**§ 21.13 Effect of certification upon au-thority to enforce applicable stand-ards.**

The certification by EPA or a State for SBA Loan purposes in no way con-stitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and speci-fications submitted in the application, will be operated and maintained prop-erly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appro-priate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

**Subpart B—Parties and Appearances**

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22.2 Use of number and gender.

22.3 Definitions.

22.4 Powers and duties of the Environ-mental Appeals Board, Regional Judicial Officer and Presiding Officer; disquali-fication, withdrawal, and reassignment.

22.5 Filing, service, and form of all filed documents; business confidentiality claims.

22.6 Filing and service of rulings, orders and decisions.

22.7 Computation and extension of time.

22.8 *Ex parte* discussion of proceeding.

22.9 Examination of documents filed.

22.10 Appearances.

22.11 Intervention and non-party briefs.

22.12 Consolidation and severance.

22.13 Commencement of a proceeding.

22.14 Complaint.

22.15 Answer to the complaint.

22.16 Motions.

22.17 Default.

22.18 Quick resolution; settlement; alter-native dispute resolution.

22.19 Prehearing information exchange; pre-hearing conference; other discovery.

22.20 Accelerated decision; decision to dis-miss.

22.21 Assignment of Presiding Officer; scheduling the hearing.

22.22 Evidence.

22.23 Objections and offers of proof.

22.24 Burden of presentation; burden of per-suasion; preponderance of the evidence standard.

22.25 Filing the transcript.

22.26 Proposed findings, conclusions, and order.

22.27 Initial decision.

22.28 Motion to reopen a hearing.

22.29 Appeal from or review of interlocutory orders or rulings.

22.30 Appeal from or review of initial deci-sion.

22.31 Final order.

22.32 Motion to reconsider a final order.

22.33 Scope of this part.

**Subpart C—Prehearing Procedures**

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**Subpart C—Prehearing Procedures**

**Subpart D—Hearing Procedures**

**Subpart D—Hearing Procedures**

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**Subpart E—Initial Decision and Motion to Reopen a Hearing**

**Subpart E—Initial Decision and Motion to Reopen a Hearing**

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**Subpart F—Appeals and Administrative Review**

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**Subpart G—Final Order**

**Subpart G—Final Order**

**Subpart G—Final Order**

**Subpart G—Final Order**

**Subpart H—Supplemental Rules**

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**Subpart I—Administrative Proceedings Not Governed by Section 554 of the Administrative Procedure Act**

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**Subpart 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS**

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**Subpart A—General**

**Subpart A—General**

**Subpart A—General**

**Subpart A—General**

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# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8, MONTANA OFFICE  
FEDERAL BUILDING, 10 W. 15<sup>th</sup> STREET, SUITE 3200  
HELENA, MONTANA 59626

03 JUN -4 PM 3:07

FILED  
EPA REGION 8  
HELENA, MONTANA

Ref: 8MO

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Jan Sensibaugh, Director  
Montana Department of Environmental Quality  
Metcalf Building  
1520 West Sixth Avenue  
Helena, MT 50620

NOTICE OF VIOLATION

Docket No. SDWA-08-2003-0031

Re: Town of Winifred public water system  
PWS ID# MT0000363

Dear Ms. Sensibaugh:

The above referenced public water system has violated certain provisions of the Safe Drinking Water Act (SDWA), 42 U.S.C. section 300f, *et seq.* and the National Primary Drinking Water Regulations at 40 C.F.R. part 141 described below.

The Environmental Protection Agency (EPA) obtained this information from your November 27, 2002 letter to EPA, the Montana Department of Environmental Quality's (MDEQ) files and data contained in the Safe Drinking Water Information System (SDWIS). Please notify Eric Finke of my staff at (406) 457-5026 within 20 days if your records show any discrepancies with these determinations of violation.

Alleged Violations at  
Town of Winifred public water system, PWS ID# MT0000363

Compliance Period	Violation	
	Description	Regulatory Citation
1/1/1999 - 12/30/1999	Failure to monitor and report nitrate.	40 C.F.R. § 141.23(d)
1/1/1999 - 12/30/1999	Failure to prepare public notice of a violation.	40 C.F.R. § 141.201



Printed on Recycled Paper

Compliance Period	Violation	
	Description	Regulatory Citation
1/1/1999 - 12/30/1999	Failure to report a violation to the State within 48 hours.	40 C.F.R. § 141.31(b)
1/1/2000 - 12.30/2000	Failure to monitor and report nitrate.	40 C.F.R. § 141.23(d)
1/1/2000 - 12.30/2000	Failure to provide public notice of a violation.	40 C.F.R. § 141.201
1/1/2000 - 12.30/2000	Failure to report a violation to the State within 48 hours.	40 C.F.R. § 141.31(b)
1/1/2002 - 12/30/2002	Failure to monitor and report nitrate.	40 C.F.R. § 141.23(d)
1/1/2002 - 12/30/2002	Failure to provide public notice of violation	40 C.F.R. § 141.201
1/1/2002 - 12/30/2002	Failure to report a violation to the State within 48 hours.	40 C.F.R. § 141.31(b)
1/1/1999 - 12/30/2001	Failure to monitor and report Inorganic Contaminants (one time during compliance period).	40 C.F.R. § 141.23(c)(1)
1/1/1999 - 12/30/2001	Failure to provide public notice of violation	40 C.F.R. § 141.201
1/1/1999 - 12/30/2001	Failure to report a violation to the State within 48 hours.	40 C.F.R. § 141.31(b)
1/1/1999 - 12/30/1999	Failure to monitor and report Volatile Organic Contaminants.	40 C.F.R. § 141.24(f)
1/1/1999 - 12/30/1999	Failure to provide public notice of violation	40 C.F.R. § 141.201
1/1/1999 - 12/30/1999	Failure to report a violation to the State within 48 hours.	40 C.F.R. § 141.31(b)
1/1/2000 - 12/30/2000	Failure to monitor and report Volatile Organic Contaminants.	40 C.F.R. § 141.24(f)
1/1/2000 - 12/30/2000	Failure to provide public notice of violation	40 C.F.R. § 141.201
1/1/2000 - 12/30/2000	Failure to report a violation to the State within 48 hours.	40 C.F.R. § 141.31(b)

Compliance Period	Violation	
	Description	Regulatory Citation
1/1/2001 - 12/30/2001	Failure to monitor and report Volatile Organic Contaminants.	40 C.F.R. § 141.24(f)
1/1/2001 - 12/30/2001	Failure to provide public notice of violation	40 C.F.R. § 141.201
1/1/2001 - 12/30/2001	Failure to report a violation to the State within 48 hours.	40 C.F.R. § 141.31(b)
1/1/2002 - 12/30/2002	Failure to monitor and report Volatile Organic Contaminants.	40 C.F.R. § 141.24(f)
1/1/2002 - 12/30/2002	Failure to provide public notice of violation	40 C.F.R. § 141.201
1/1/2002 - 12/30/2002	Failure to report a violation to the State within 48 hours.	40 C.F.R. § 141.31(b)
1/1/1999 - 12/30/2001	Failure to monitor and report Synthetic Organic Contaminants (one time during compliance period).	40 C.F.R. § 141.24(h)
1/1/1999 - 12/30/2001	Failure to provide public notice of violation	40 C.F.R. § 141.201
1/1/1999 - 12/30/2001	Failure to report a violation to the State within 48 hours.	40 C.F.R. § 141.31(b)
1/1/2001 - 12/30/2001	Failure to provide Consumer Confidence Report	40 C.F.R. § 141.152 - .155

This NOTICE OF VIOLATION is issued pursuant to section 1414(a) of the SDWA, 42 U.S.C. section 300g-3(a). For the violations listed above, if MDEQ does not commence appropriate enforcement action within 30 days from the receipt of this notification, EPA is authorized to either issue an Administrative Order under section 1414(g) of the SDWA requiring the public water system to comply with these regulations, or commence civil action under section 1414(b) of the SDWA.

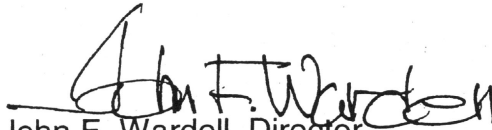
Please inform EPA of any change in the compliance status of this system. You may wish to confer with my staff to determine the Agency's position concerning this system and to exchange appropriate information. If the State does not commence appropriate enforcement action within 30 days from the receipt of the notification, EPA will contact MDEQ to make arrangements to review and copy documents in the system's file, including any records contained in the state archives. If you have any

questions, please contact Mr. Finke at (406) 457-5026. A copy of this NOTICE OF VIOLATION has been concurrently sent to the public water system identified above.

Sincerely,



Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



John F. Wardell, Director  
EPA Montana Office

cc: Steve Welch, Permitting and Compliance Division  
John Arrigo, Enforcement Division  
Town of Winifred, PWS ID# MT0000363





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8, MONTANA OFFICE  
FEDERAL BUILDING, 10 W. 15<sup>th</sup> STREET, SUITE 3200  
HELENA, MONTANA 59626

SEP 29 2003

Ref: 8MO

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Neil Rich, Mayor  
Town of Winifred  
P.O. Box 133  
Winifred, MT 59849

Re: Administrative Order  
Docket No. SDWA-08-2003-0031  
Town of Winifred  
PWS ID #MT0000363

Dear Mr. Rich:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f *et seq.*, and its implementing regulations. Among other things, the Administrative Order finds that Town of Winifred is a public water supplier as defined by the SDWA and that you have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.23(d), 141.23(c), 141.24(f), 141.24(h), 141.31(b), and 141.32/141.201 for: failure to monitor for nitrate, inorganic contaminants, volatile organic contaminants, and synthetic organic contaminants; failure to notify the State of a violation; and failure to provide public notice of the violations, respectively.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

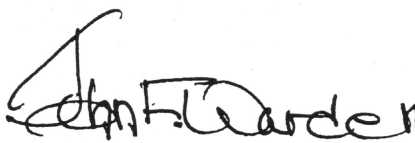


Printed on Recycled Paper

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Eric Finke at the address on the letterhead, or you may call Mr. Finke at (800) 457-2690 or (406) 457-5026. If you wish to have an informal conference with EPA, you may also call or write Mr. Finke. If you are represented by an attorney or have legal questions, please call Michelle Jalazo at (800) 227-8917 or (303) 312-6912.  
6921

I urge your prompt attention to this matter.

Sincerely,



John F. Wardell, Director  
EPA Montana Office

Enclosures

Order w/ sample bottle labels  
SBREFA notice  
Public Notice template

cc: Jan Sensibaugh, MDEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

03/07/03 11:41

IN THE MATTER OF )

Town of Winifred )  
Winifred, Montana )  
PWS ID# MT0000363 )

Respondent )

Proceedings under section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2003-0031**

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Legal Enforcement Program of the Office of Enforcement, Compliance and Environmental Justice and the EPA Montana Office, EPA Region 8.

FINDINGS

1. The Town of Winifred ("Respondent") is a municipality and therefore a "person" within the meaning of 40 C.F.R. §141.2.
2. Respondent owns and/or operates the Town of Winifred Water System (the "System"), located in Fergus County, Montana for the provision of water to the public for human consumption.
3. According to records maintained by the Montana Department of Environmental Quality (MDEQ), the System has at least 15 service connections used by year-

round residents or regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent(s) own(s) and/or operate(s) a public water system and is therefore a "supplier of water" within the meaning of section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. part 141.
5. According to a August 2000 sanitary survey by the Montana Department of Environmental Quality, Respondent's System is supplied solely by a groundwater source consisting of one well and which serves approximately 150 persons daily.
6. The Montana Department of Environmental Quality (MDEQ) has primary enforcement authority for the Safe Drinking Water Act in the State of Montana. On June 10, 2003, EPA issued a Notice of Violation pursuant to section 1414(a) of the Act, 42 U.S.C. § 300g-3(a) to the MDEQ regarding the violations at the System. The MDEQ elected not to commence an appropriate enforcement action against the System for the violations within the thirty day time frame set forth in section 1414(a) of the Act, 42 U.S.C. § 300g-3(a).

#### FINDINGS OF VIOLATION

- I. Failure to monitor for nitrate
  - A. 40 C.F.R. § 141.23(d) requires public water systems to monitor their water annually for nitrate to determine compliance with the nitrate maximum

contaminant levels ("MCLs") as stated in 40 C.F.R. § 141.62.

- B. Respondent failed to monitor for nitrate in calendar years 1999, 2000, and 2002, in violation of 40 C.F.R. § 141.23(d).

II. Failure to monitor for inorganic contaminants

- A. 40 C.F.R. § 141.23(c)(1) requires community water systems utilizing groundwater sources to monitor their water once in each 3 year compliance period to determine compliance with the MCLs for inorganic contaminants as stated in 40 C.F.R. § 141.62.
- B. Respondent failed to monitor its water in the 3 year compliance period January 1, 1999 - December 31, 2001, in violation of 40 C.F.R. § 141.23(c)(1).

III. Failure to monitor for volatile organic contaminants

- A. 40 C.F.R. § 141.24(f) requires that community water systems monitor their water annually to determine compliance with the MCLs for volatile organic contaminants as stated in 40 C.F.R. § 141.61.
- B. Respondent failed to monitor its water for volatile organic contaminants in the compliance period in 1999, 2000, 2001 and 2002, in violation of 40 C.F.R. § 141.24(f).

IV. Failure to monitor for synthetic organic contaminants

- A. 40 C.F.R. § 141.24(h) requires all community water systems that have no detects during initial monitoring and have a population less than 3,301, to monitor their water once during each repeat compliance period to determine compliance with the MCLs for pesticide/herbicide organic

contaminants as stated in 40 C.F.R. § 141.61(c).

- B. Respondent failed to monitor its water for pesticide/ herbicide organic contaminants during the three year compliance period January 1, 1999 - December 31, 2001, in violation of 40 C.F.R. § 141.24(h).

V. Failure to provide public notice of a violation

- A. 40 C.F.R. § 141.32 requires the owner or operator of a public water system to notify the public of any National Primary Drinking Water Regulation ("NPDWRs") monitoring violation. Such notifications must be performed in the manner provided in 40 C.F.R. § 141.32 prior to May 6, 2002, and in the manner provided in 40 C.F.R. part 141 subpart Q on or after May 6, 2002.
- B. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any violation of the NPDWRs, including monitoring requirements.
- C. Respondent has not provided public notice of the noncompliance detailed in the preceding Sections I through IV, in violation of 40 C.F.R. §§ 141.32 and 141.201.

VI. Failure to report a violation to the State

- A. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR to the State within 48 hours.
- B. Respondent failed to report to the State instances of noncompliance detailed in Sections I through V above, in violation of 40 C.F.R. § 141.31(b).

## ORDER

Based on the foregoing Findings, and pursuant to section 1414(g) of the Act, IT IS ORDERED:

1. Within 30 days of the effective date of this Order, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCLs appearing at 40 C.F.R. § 141.62(b). Respondent shall use the sample bottle labels accompanying this Order. Respondent shall report analytical results to EPA and MDEQ within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. Within 30 days of the effective date of this Order, Respondent shall comply with the inorganic contaminant monitoring requirements as stated in 40 C.F.R. § 141.23(c)(1) to determine compliance with the inorganic MCLs appearing at 40 C.F.R. § 141.62. Respondent shall report analytical results to EPA and MDEQ within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).
3. Within 30 days of the effective date of this Order, Respondent shall comply with the organic contaminant monitoring requirements as stated in 40 C.F.R. § 141.24(f) to determine compliance with the MCLs for volatile organic contaminants appearing at 40 C.F.R. § 141.61. Respondent shall report analytical results to EPA and MDEQ within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).

4. Within 30 days of the effective date of this Order, Respondent shall comply with the organic contaminant monitoring requirements as stated in 40 C.F.R. § 141.24(h) to determine compliance with the MCLs for pesticide/herbicide organic contaminants appearing at 40 C.F.R. § 141.61(c). Respondent shall report analytical results to EPA and MDEQ within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).
5. If Respondent has already provided the monitoring results of paragraphs above to MDEQ, Respondent need not resample but Respondent shall send a copy of the analytical results to EPA at the address in paragraph 8 within 10 calendar days of the effective date of this Order.
6. No later than 30 days from the effective date of this Order, Respondent shall return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205 by providing public notice of the violations specified under the Findings of Violation in this Order. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the System; AND (2) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice, such as publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places or on the Internet; or delivery to community organizations. The System must repeat the notice annually for as long as the violation, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance,

exemption, or other situation persists, but in no case less than seven days.

Respondent may use the Consumer Confidence Report ("CCR") to provide public notice as long as (1) The CCR is provided to persons served no later than 12 months after the system learns of the violation or situation; (2) The public notice contained in the CCR follows the content requirements under 40 C.F.R. § 141.205; AND (3) The CCR is distributed following the delivery requirements under 40 C.F.R. § 141.204(c). Upon the effective date of this Order,

Respondent shall comply with the publication notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA and MDEQ within 10 days of completion of the public notice, including a certification that Respondent has fully complied with the public notice regulations, as required by 40 C.F.R. § 141.31(d).

7. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR to MDEQ and EPA within 48 hours.

8. Documents, certifications, analytical results, and public notices required by this Order shall be sent by certified mail to:

Eric Finke	and	Andrea Vickory
EPA Montana Office		MT Dept. of Environmental Quality - PWS
10 West 15 <sup>th</sup> Street, Suite 3200		P.O. Box 200901
Helena, MT 59626		Helena, MT 59620

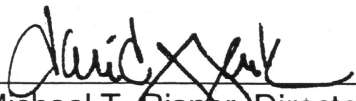
#### GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which

remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.

2. Violation of any term of this Order instituted under section 1414(g)(3)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation under section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the effective date of issuance of this Order.

Issued this 29<sup>th</sup> day of Sept., 2003.

  
\_\_\_\_\_  
Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

  
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John F. Wardell, Director  
EPA Montana Office

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## Office of Enforcement and Compliance Assurance **INFORMATION SHEET**

### U.S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and State environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

#### **EPA Websites**

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. Many public libraries provide access to the Internet at minimal or no cost.

EPA's Small Business Home Page (<http://www.epa.gov/sbo>) is a good place to start because it links with many other related websites. Other useful websites include:

*EPA's Home Page*  
<http://www.epa.gov>

*Small Business Assistance Programs*  
<http://www.epa.gov/ttn/sbap>

*Compliance Assistance Home Page*  
<http://www.epa.gov/oeca/oc>

*Office of Site Remediation Enforcement*  
<http://www.epa.gov/oeca/osre>

#### **Hotlines, Helplines and Clearinghouses**

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance on environmental requirements.

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs. Key hotlines include:

**EPA's Small Business Ombudsman**  
(800) 368-5888

**Hazardous Waste/Underground Tanks/  
Superfund**  
(800) 424-9346

**National Response Center**  
(to report oil and hazardous substance spills)  
(800) 424-8802

**Toxics Substances and Asbestos Information**  
(202) 554-1404

**Safe Drinking Water**  
(800) 426-4791

**Stratospheric Ozone and Refrigerants  
Information**  
(800) 296-1996

**Clean Air Technical Center**  
(919) 541-0800

**Wetlands Hotline**  
(800) 832-7828

Continued on back

## **Compliance Assistance Centers**

In partnership with industry, universities, and other federal and state agencies, EPA has established national Compliance Assistance Centers that provide Internet and "faxback" assistance services for several industries with many small businesses. The following Compliance Assistance Centers can be accessed by calling the phone numbers below and at their respective websites:

### **Metal Finishing**

(1-800-AT-NMFRC or [www.nmfrc.org](http://www.nmfrc.org))

### **Printing**

(1-888-USPNEAC or [www.pneac.org](http://www.pneac.org))

### **Automotive Service and Repair**

(1-888-GRN-LINK or [www.ccar-greenlink.org](http://www.ccar-greenlink.org))

### **Agriculture**

(1-888-663-2155 or [www.epa.gov/oeca/ag](http://www.epa.gov/oeca/ag))

### **Printed Wiring Board Manufacturing**

(1-734-995-4911 or [www.pwbr.org](http://www.pwbr.org))

### **The Chemical Industry**

(1-800-672-6048 or [www.chemalliance.org](http://www.chemalliance.org))

### **The Transportation Industry**

(1-888-459-0656 or [www.transource.org](http://www.transource.org))

### **The Paints and Coatings Center**

(1-800-286-6372 or [www.paintcenter.org](http://www.paintcenter.org))

## **State Agencies**

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information. For assistance in reaching state agencies, call EPA's Small Business Ombudsman at (800)-368-5888 or visit the Small Business Environmental Homepage at <http://www.smallbiz-enviroweb.org/state.html>.

## **Compliance Incentives**

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations, businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses: The Audit Policy (<http://www.epa.gov/oeca/auditpol.html>) and the Small Business Policy (<http://www.epa.gov/oeca/>

[smbusi.html](http://www.epa.gov/oeca/smbusi.html)). These do not apply if an enforcement action has already been initiated.

## **Commenting on Federal Enforcement Actions and Compliance Activities**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an ombudsman ("SBREFA Ombudsman") and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The SBREFA Ombudsman will annually rate each agency's responsiveness to small businesses. If you believe that you fall within the Small Business Administration's definition of a small business (based on your Standard Industrial Code (SIC) designation, number of employees or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

## **Your Duty to Comply**

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

***EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) or related provisions.***

# DRINKING WATER NOTICE

Monitoring requirements not met for \_\_\_\_\_

We violated a drinking water standard. Even though this was not an emergency, as our customers, you have a right to know what happened and what we are doing to correct this situation.

*We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During \_\_\_\_\_ we did not monitor for \_\_\_\_\_ and therefore cannot be sure of the quality of our drinking water during that time.*

## What This Means

**There is nothing you need to do at this time.** The table below lists the contaminant(s) we did not properly test for, how often we are supposed to sample for [it/them] and how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required sampling frequency	Number of samples taken	When all samples should have been taken	When samples were or will be taken

## Steps We Are Taking

[Describe corrective action.]

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For more information, please contact \_\_\_\_\_ of \_\_\_\_\_  
at \_\_\_\_\_ or \_\_\_\_\_.

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*

Posted from: \_\_\_\_\_ to: \_\_\_\_\_ or date mailed/hand delivered: \_\_\_\_\_ Signature: \_\_\_\_\_

Note: send to EPA when completed; keep a copy for your records.

## Instructions for Monitoring Violation Notice-Template NC-4

### Template on Reverse

Since most monitoring violations are included in Tier 3, you must provide public notice to persons served within one year after you learn of the violation (141.204(b)). Multiple monitoring violations can be serious, and your primacy agency may have more stringent requirements. Check with your primacy agency to make sure you meet its requirements.

Non-community systems must use one of the following methods (141.204(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, you must use *another* method reasonably calculated to reach others if they would not be reached by the first method (141.204(c)). Such methods could include newsletters, e-mail, or delivery to community organizations. The language to encourage distribution of the notice is included on this notice; however, if you post this notice, omit the mandatory language to encourage distribution, as it is not needed since posting makes the notice available to everyone who passes by.

You must post the notice until the violation is resolved. If the violation has been resolved, you must post the notice for at least one week (141.204(b)). If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for an annual notice combining notification for several violations, as well as for notices for individual violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time.

Include in your notice the standard language for monitoring and testing procedure violations in *italics* (141.205(d)(2)). If you modify the notice, you may not alter this mandatory language.

### Corrective Actions

In your notice describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. Choose the appropriate language, or develop your own:

- We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- We plan to take the required samples soon, as described in the last column of the table above.

### After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8, MONTANA OFFICE  
FEDERAL BUILDING, 10 W. 15<sup>th</sup> STREET, SUITE 3200  
HELENA, MONTANA 59626

2004 APR 22 PM 3: 16

Ref: 8MO

APR 22 2004

FILED  
EPA REGION VIII  
HEARING CLERK

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Neil Rich, Mayor  
Town of Winifred  
P.O. Box 133  
Winifred, MT 59849

Re: Violation of Administrative Order  
Docket No. SDWA-08-2003-0031  
Town of Winifred  
PWS ID # MT0000363

Dear Mayor Rich:

On September 29, 2003, the Environmental Protection Agency (EPA) issued an Administrative Order (Order), Docket No. SDWA-08-2003-0014, ordering the Town of Winifred's ("Winifred") compliance with the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations, the National Primary Drinking Water Regulations (NPDWRs) 40 C.F.R. part 141.

Our records indicate that Winifred is in violation of that Order. The Order required Winifred to:

1. *No later than 30 days from the effective date of this Order, Respondent shall return to compliance with 40 C.F.R. §§ 141.32, 141.201, 141.204 and 141.205 by providing public notice of the violations specified under the Findings of Violation in this Order. This notice shall be given by (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the System OR (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the System if they would not normally be reached by the notice required above, such as publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or delivery of multiple copies in central locations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must*



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*repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondent shall comply with the publication notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA and MDEQ within 10 days of completion of the public notice, including a certification that Respondent has fully complied with the public notice regulations, as required by 40 C.F.R. § 141.31(d).*

Respondent failed to conduct public notice for the violations contained in the Order and the 2003 nitrate monitoring violation. Please provide public notice and provide a copy to EPA and MDEQ within 10 days of completion of the public notice.

- 2.. *Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR to MDEQ and EPA within 48 hours.*

Respondent failed to notify EPA and MDEQ of the violations contained in the AO and this letter.

Documents, certifications, analytical results, and public notices required by the Order shall be sent by certified mail to:

Eric Finke  
EPA Montana Office  
10 West 15<sup>th</sup> Street  
Suite 3200  
Helena, MT 59626

and

Andrea Vickory  
MT Dept. of Environmental Quality  
Public Water Supply  
P.O. Box 200901  
Helena, MT 59620

You must take immediate action to comply with the NPDWRs, 40 C.F.R. part 141, and the Order. EPA is considering additional enforcement action as a result of your noncompliance with the Order. Violating an Administrative Order may lead to (1) a penalty of up to \$27,500 per day per violation of the Order for violations occurring before March 15, 2004 and up to \$32,500 per day per violation for violations occurring on or after March 15, 2004, and/or (2) a court injunction ordering you to comply.

If you have any questions or wish to have an informal conference with EPA, you may contact Michelle Jalazo at (303) 312-6921 or at the following address:

Michelle Jalazo  
Enforcement Attorney  
U.S. EPA, Region 8 (8ENF-L)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

I urge your prompt attention to this matter.

Sincerely,

  
John F. Wardell, Director  
Montana Office

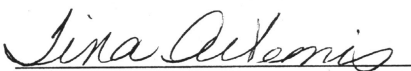
## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINE COMPLAINT CONSENT AGREEMENT/FINAL ORDER** in the matter **TOWN OF WINIFRED, DOCKET NO.: SDWA-08-2006-0025** was filed with the Regional Hearing Clerk on April 7, 2006:

Further, the undersigned certifies that a true and correct copy of the document was delivered to Michelle Marcu, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on April 7, 2006, to:

Neil Rich, Mayor  
Town of Winifred  
150 Main Street  
P. O. Box 133  
Winifred, MT 59489

April 7, 2006

  
Tina Artemis  
Regional Hearing Clerk



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